HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.10448 of 1998

Dated 29th day of March, 2007

Between:

G. Vishnuvardhan Reddy
and two others ..
Petitioners

And

The Collector & District Magistrate &
Chairman, DPAP (Drought Prone
Areas Programme), Mahabubnagar
and two others ..
Respondents

O R D E R:

This writ petition is filed to quash the proceedings dated 21.3.1998 issued by the 1st respondent.

The brief facts of the case are that the petitioners are the elected members of Watershed Committee and they took several works such as laying roads, bunds, etc. for improvement under various schemes approved by the Government. The 3rd respondent-Project Director issued a show cause notice dated 16.1.1998 to the petitioners calling for their explanation as to why Rs.95,921/- should not be recovered from them, and the petitioners offered their explanation on 2.2.1998. Now, the petitioners' grievance is that the 1st respondent-District Collector, in his proceedings dated 21.3.1998, ordered recovery of an amount of Rs.1,34,976.60 from the petitioners which was alleged to have been misappropriated by them.

Heard the learned counsel for both the parties.

The main contention of the learned counsel for the petitioners is that show cause notice dated 16.1.1998 was issued by the 3rd respondent-Project Director for which the petitioners offered explanation dated 2.2.1998. However, the impugned order dated 21.3.1998 was passed by the 1st respondent-District Collector. According to the learned counsel, when the 3rd respondent initiated proceedings, it is only the 3rd respondent, who can pass appropriate orders, but not the Collector, and hence, the impugned order is without jurisdiction.

Though a detailed counter is filed, this aspect is not controverted. In the impugned proceedings also it is admitted that the

3rd respondent issued the show cause notice, but it is nowhere mentioned that the notice was issued at the instance of the Collector, who is the competent authority. The 3rd respondent-Project Director, while issuing the show cause notice, directed the petitioners to submit their explanation only to him within a period of seven days. Hence, the contention put forth by the learned counsel for the petitioners is accepted, and the proceedings dated 21.3.1998 impugned in this writ petition are liable to be set aside.

In the result, the writ petition is allowed setting aside the proceedings date 21.3.1998 of the 1st respondent-District Collector. However, this order does not preclude the competent authority from initiating proceedings afresh regarding recovery. No costs.

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29.03.2007

bcj